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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/586,468	07/28/2008	Claudio Marra	4865-89	4225
23117	7590	08/03/2010	EXAMINER	
NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203				MAKIYA, DAVID J
ART UNIT		PAPER NUMBER		
2885				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/586,468	MARRA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	David J. Makiya	2885	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 18 July 2006.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 15-24 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 15-24 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 01 June 2008 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/18/06</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|  | 6) <input type="checkbox"/> Other: _____ .                        |

## **DETAILED ACTION**

The preliminary amendment filed 7/18/2006 has been entered. Claims 1-14 have subsequently been cancelled and Claims 15-24 are pending.

### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on 7/18/2006 was considered by the examiner.

### ***Specification***

The disclosure is objected to because of the following informalities: The specification fails to provide a “Brief Summary of the Invention.” The “Detailed Description of the Invention” should be included after the “Brief Description of the Drawings.”

Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.

Detailed Description of the Invention: See MPEP § 608.01(g). A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the field,

the specification should refer to another patent or readily available publication which adequately describes the subject matter.

The disclosure is also objected to because of the following informalities: the language appears to be using a different format where the symbol “n<sup>o</sup>” appears to be signifying a specific number. If that is the case, the “n<sup>o</sup>” symbol should be removed, leaving only the reference numbers to specifically identify the item in the corresponding drawings

Appropriate correction is required.

### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character “2” has been used to designate both “joint” and “cylindrical component”.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters “2” and “4” have both been used to designate the “joint”.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “a constant radius along the development of the spiral” must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure

must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

Claim 18 is objected to because of the following informalities: it is unclear as to how the arm could have “a constant radius along the development of the spiral” since a spiral has a constantly changing radius since it is helical in form. If it were to have a “constant radius”, then it would merely be a circle. The claim will be interpreted as best understood. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims **15-19 and 21-24** rejected under 35 U.S.C. 103(a) as being obvious over Ban (US Patent 4,305,560) in view of Shieh (US Patent 6,379,021).

With respect to claims 15-19 and 24, Ban teaches a lamp having a supporting structure comprising a plurality of rigid arms (4, 6) disposed in succession (Figure 1), each arm being joined to the adjacent ones at respective ends by a joint (4a, 4b) consisting of a cylindrical hinge provided with an adjustable braking moment (Column 2, Lines 18-26), so as to allow the raising and the lowering of the lamp from a flat configuration (Figure 1) to a raised or extended configuration (Figure 2) and to keep the supporting structure still in a desired position (Figure 1).

Furthermore, Ban teaches the arms can be adjusted “to arrange the lamp in a multitude of aesthetically pleasing shapes” (Column 3, Lines 3-11).

However, Ban fails to teach the “aesthetically pleasing shape” including a circular or polygonal spiral.

Shieh teaches a lamp having a supporting structure comprising a plurality of rigid arms 10 disposed in succession so as to form a circular or a polygonal spiral (Figures 1, 6), each arm being joined to the adjacent ones at respective ends by a joint 14, so as to allow the raising and the lowering of the lamp from a flat configuration (Figure 2) to a raised or extended configuration and to keep the supporting structure still in a desired position (Figures 1, 6), wherein the spiral is circular, having a curvature radius progressively decreasing from a periphery of the structure (Figure 2) or the spiral is a triangular, square, pentagonal or hexagonal (Figure 6), and the orthogonal section of each arm is circular (Figure 5) with a constant decreasing radius along the development of the spiral (Figure 2); and a bracket 30, for securing

the supporting structure to a wall or to a ceiling, or a basement for resting the supporting structure on a table or on the floor (Column 2, Lines 54-65).

It would have been obvious and advantageous to one of ordinary skill at the time of the invention to modify and reconstruct the lamp of Ban by reconfiguring the shape to a spiral shape with a bracket from the teachings of Shieh because the “three-dimensional spiral construction...[is] easy to be assembled and stored” (Shieh; Column 1, Lines 40-55) and since it has been held by the courts that a change in shape or configuration, without any criticality, is nothing more than one of numerous shapes that one of ordinary skill in the art will find obvious to provide based on the suitability for the intended final application. See *In re Dailey*, 149 USPQ 47 (CCPA 1976). It appears that the disclosed device would perform equally well shaped as disclosed by Ban.

With respect to claim 21, Ban teaches the lamp wherein each arm is hollow (Figure 3), so as to allow the passage of electrical wires and/or optical fibres 8.

With respect to claim 22, Ban teaches the lamp having a light source 12 at the inner end of the spiral supporting structure.

With respect to claim 23, Ban teaches the lamp wherein the light source comprises at least one light bulb and/or one light emitting diode (Column 2, Lines 52-56).

**Claim 20** is rejected under 35 U.S.C. 103(a) as being unpatentable over Ban in view of Shieh as applied to claim 17 above, and further in view of Ambasz (US Patent 4,777,572).

With respect to claim 20, Ban in view of Shieh teaches the lamp as described above.

However, Ban in view of Shieh fails to teach the lamp wherein the orthogonal section of each arm is elliptical.

Ambasz teaches a lamp having a supporting structure comprising a plurality of rigid arms (10, 12) disposed in succession, each arm being joined to the adjacent one at respective ends (14, 16) by a joint wherein an orthogonal section of each arm is elliptical having a degree of eccentricity so as to produce an oblique section, at the ends of each arms, having a circular shape (Column 3, Lines 35-55).

It would have been obvious and advantageous to one of ordinary skill at the time of the invention to modify and reconstruct the lamp of Ban in view of Shieh to have an elliptical section from the teachings of Ambasz because aligning this way ensures the “perimeters coincident with the circular edges of the column and lamp housing” (Ambasz; Column 1, Lines 53-66) to minimize overlap and keep connected and since it has been held by the courts that a change in shape or configuration, without any criticality, is nothing more than one of numerous shapes that one of ordinary skill in the art will find obvious to provide based on the suitability for the intended final application. See *In re Dailey*, 149 USPQ 47 (CCPA 1976). It appears that the disclosed device would perform equally well shaped as disclosed by Ban in view of Shieh.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hong (US Patent 5,329,434) teaches a plurality of rigid, curved arms and cylindrical hinges. Byers (US Patent 6,132,063) and Oberzan (US Patent 5,336,536) both teach lamps with spiral shaped lamps.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Makiya whose telephone number is (571) 272-2273. The examiner can normally be reached on Monday-Friday 7:30am - 4:00pm (ET).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jong-Suk (James) Lee can be reached on (571) 272-7044. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/DJM/ 7/29/2010

/Jong-Suk (James) Lee/  
Supervisory Patent Examiner, Art Unit 2885

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